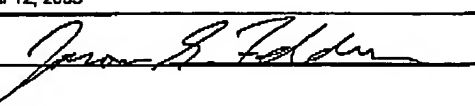



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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 30566.249-US-U1	RECEIVED CENTRAL FAX CENTER OCT. 12 2005
I hereby certify that this correspondence is being filed via facsimile transmission to the U.S. Patent and Trademark Office under 37 CFR 1.8 on <u>October 12, 2005</u> Signature <u></u> Typed or printed name <u>Jason S. Feldmar</u>		Application Number 10/657,422 Filed 09/08/2003 First Named Inventor Scott A. Arvin et al. Art Unit 2672 Examiner Michelle K. Lay	
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/86) <input checked="" type="checkbox"/> attorney or agent of record. 39,187 Registration number _____ <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u></u> Signature Jason S. Feldmar Typed or printed name (310) 641-8797 Telephone number October 12, 2005 Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Due Date: October 12, 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicants: Scott A. Arvin et al. Examiner: Michelle K. Lay
Serial No.: 10/657,422 Group Art Unit: 2672
Filed: September 8, 2003 Docket: G&C 30566.249-US-U1
Title: OBJECT MANIPULATORS AND FUNCTIONALITY

OCT 12 2005

PRE-APPEAL BRIEF REQUEST FOR REVIEW ARGUMENTS

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action dated July 12, 2005, and the Advisory Action dated October 4, 2005, Applicants hereby submit a Notice of Appeal accompanied by a Pre-Appeal Brief Request for Review. The amendments to the claims made after the final Office Action have been entered into the record.

Summary of the Invention

Independent claims 1, 7, 8, 10, 13-16, 22, 23, 25, 28, 29-31, 37, 38, 40, and 43-45, and are generally directed to the use of button object manipulators in a computer graphics drawing program. In this regard, the graphics objects comprise one or more graphical elements. Further the button object manipulators in all of the independent claims are made up of a grip. Thus, the independent claims provide for a use in a drawing program environment with graphical elements in the drawing program. Each of the independent claims provides for different methods/mechanisms for using the button object manipulators in the drawing program.

Claims 1, 16, and 31 -- Clear Error in the Rejection

Applicant directs the panel to 20-21 of the Amendment filed by Appellant on September 12, 2005. In response, the Advisory Action submits that since a left mouse button is clicked when a cursor is over a handle, a mode is entered, activating a function, and such a sequence has the same properties as a button.

Appellants respectfully traverse and submit that the Office Action omits an essential element needed for a prima facie rejection. In this regard, the claims provide that the activating of the object (i.e., the clicking of the mouse button without dragging the button) modifies a property of the graphic object. The example provided in the Advisory Action and the rejection in the final Office Action clearly omits the fact that a property of the graphic object is directly modified with the activation. Merely moving into a mode where the user can drag a frame center handle does not equate to a direct modification of a property of the object without dragging the mouse button. In this regard, the Office Action and Advisory Action omits the essential claimed element relating to the direct modification of the property of the graphic object in response to the activation that occurs without moving the button object manipulator.

In addition, there is clear error in the rejection since there is no motivation to combine the references and the rejection relies on impermissible hindsight.

Claims 7, 22, and 37 – Clear Error in the Rejection

Appellant directs the panel to pages 21-22 of the Amendment filed by Appellant on September 12, 2005. In response, the Advisory Action responds that the activation of the handle will affect one or more properties of another object.

Appellants submit that the Advisory Action and final Office Action omit an essential element needed to establish a prima facie rejection. Namely, regardless of whether the activation of the handle will affect one or more properties of another object, the claims provide a specific limitation where the color of the manipulator indicates whether the activation of the manipulator will affect a property of another object. Nowhere in the Advisory Action or Final Office Action is there any assertion that addresses the claim element relating to the color of the manipulator that provides such an indication. In fact, the rejections thereby contain a clear error in failing to address this essential element of the claim.

Claims 8, 23, and 38 – Clear Error in the Rejection

Appellant directs the panel to pages 22-23 of the Amendment filed by Appellant on September 12, 2005. In response, the Advisory Action responds that the claims do not state that the

object manipulator is reoriented automatically if the initial orientation is visually confusing or distinct.

Appellants submit that the Office Action is misreading the claims and such an element is contained in the claims. For example, claim 8 contains a specific limitation that provides "reorienting the object manipulator when an initial orientation is visually confusing or indistinct." Such language cannot merely be ignored when attempting to establish a prima facie rejection. Accordingly, there is a clear error in the rejection and the action has omitted an essential element needed for a prima facie rejection.

Claims 10, 25, and 40 – Clear Error in the Rejection

Appellant directs the panel to pages 23-24 of the Amendment filed by Appellant on September 12, 2005. In response, the Advisory Action responds that merely by moving the cursor over the frame center knob, the color is altered (one function) and by clicking the mouse, the handle goes into movement mode (a second function).

Appellants respectfully traverse and again assert that an essential element of the claim is omitted thereby leading to clear error in the rejection and a failure to establish a prima facie rejection. The claims explicitly provide that each function state enables the object manipulator to perform one or more discrete functions that modify a property of the graphic object. The first function cited in the Advisory Action merely alters a knob color but completely fails to modify a property of the graphic object or enable the manipulator to perform a function that modifies a property of the graphic object. Accordingly, the frame center knob does not and cannot meet the claim limitations. The Actions fail to state how the knob color alteration meets the claim limitations. In this regard, the essential elements of the claims that relate to function states and what the function states are enabled to do are omitted from the Office Action.

Claims 13, 28, and 43 – Clear Error in the Rejection

Appellant directs the panel to pages 24-25 of the Amendment filed by Appellant on September 12, 2005. In response, the Advisory Action responds that based on a computer dictionary, a window is a portion of the screen within an application or graphical interface that can contain its own document or message. The Advisory Action continues and states that the

boundaries of a graphical interface equate to graphical elements and since a graphics drawing program can have windows, the resizing of the boundaries equates to graphical element being modified.

Appellants respectfully traverse and submit that there is clear error in the Examiner's rejections and logic. Firstly, the Examiner is relying on a dictionary definition that is outside of the scope of the record presented to date and is outside of the scope of the present specification. In addition, the Action clearly omits the use of an object manipulator on a graphic object in a graphics drawing program. Equating a general window to such a graphic object omits an essential element of the claims – a graphic object in a computer graphics program with a grip on top of the object (with the details of such objects clearly established in the specification of the invention).

Claims 14, 29, and 44 – Clear Error in the Rejection

Appellant directs the panel to pages 25-26 of the Amendment filed by Appellant on September 12, 2005. In response, the Advisory Action responds that the circle indicates that the graphical elements are within the proximity region of the guidelines.

Appellants respectfully traverse the above assertions and submit that there is clear error in the rejections. Namely, the claims explicitly provide that the “particular glyph shape of the object manipulator indicates an alignment of the graphic object with respect to one or more additional objects”. Thus, the glyph shape itself must indicate the alignment. The Advisory Action omits any mention of the particular glyph shape and instead states that the look of the particular glyph shape is not specified. However, the language of the claims indicates that the particular glyph shape indicates an alignment. A mere circle does not indicate anything relating to alignment. Further, the circle merely indicates that the point is a guide point associated with a guideline and does not indicate an alignment with other objects as claimed. In this regard, the Action omits an essential element of the claims and fails to establish a prima facie rejection.

Claims 15, 30, and 45 – Clear Error in the Rejection

Appellant directs the panel to pages 25-26 of the Amendment filed by Appellant on September 12, 2005. In response, the Advisory Action responds relies on FIG. 10 and states that it shows windows and buttons 285-288 being translucent.

Appellants submit that such an interpretation is beyond the scope of Frank, is without merit, and establishes clear error in the rejection. Buttons 285-288 are not shown translucent whatsoever. The figure illustrates a black and white drawing. Behind each button 285-288 is a white background. Thus, contrary to that asserted in the Action, FIG. 10 could only be used to provide that the buttons are not translucent since nothing is shown behind them at all. Again, the text of Frank fails to even remotely describe any such translucency of the buttons. Further, there is no statement in Frank that establishes that the buttons are part of the window's transparency. As far as that illustrated in FIG. 10, the buttons may appear non-translucent to allow the user to more easily manipulate the windows. In view of the above, Appellants submit that the Actions are attempting to assert Frank for a concept that is not described or alluded to in Frank at all.

In addition, the claimed object manipulator is on a graphic object in a drawing program. Similar to the arguments asserted with respect to claims 13, 28, and 43, the windows of Frank are not graphic objects in a computer drawing program and the icons are not object manipulators that are grips displayed on a graphic object. Thus, further essential elements relating to a "grip", and displaying the object manipulator on the graphic object are omitted in the Office Action thereby clearly indicate the failure to establish a prima facie rejection.

Respectfully submitted,

Paul F. Klein

By their attorneys,

GATES & COOPER LLP

Howard Hughes Center
6701 Center Drive West, Suite 1050
Los Angeles, California 90045
(310) 641-8797

Date: October 12, 2005

By: 

Name: Jason S. Feldmar

Reg. No.: 39,187